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| 53148 7590 08/19/2009 HAMRE, SCHUMANN, MUELLER & LARSON P.C. P.O. BOX 2902-0902 MINNEAPOLIS, MN 55402 | | | | |
| EXAMINER | | | | |
| CHOI, MICHAEL P | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/544,233

Applicant(s)

OKADA ET AL.

Examiner

MICHAEL CHOI

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/19/09 have been fully considered but they are not persuasive.

As per remarks on page 4, applicant argues that Fig. 27, audio data located at reading #5 are post-recorded audio data, the data is read between the video data at Reading #4 and Reading #6, which are not read after the original audio data and before the video data. Thus, Itoh fails to disclose the device that firstly reproduces the original audio data, secondly, post-record audio data, and thirdly, video data, all of which are filed in the blocks corresponding to each other, i.e., M data blocks, and the reproduces the original audio data of video data in M-1 data blocks as claim 1 requires.

In response, Itoh does teach that original audio is read first as further clarified in Fig. 7 and paragraphs [0098 and 0100], though no such limitation in newly constructed claim 1 specifies such nature. Itoh teaches a *device* wherein such control portion controls (1) original audio data are reproduced from a head block of the M data blocks in the main sequence (Fig. 28; Paragraph 200; as further clarified in Fig. 7 and paragraphs [0098 and 0100] as such without such audio, back-audio would have no basis), (2) post-record audio data are reproduced in succession from the M data blocks in the additional sequence that correspond to the M data blocks in the main sequence (Paragraphs 188, 200, 218), (3) video data are reproduced from the head block of the main sequence (in at least Figs. 26, 27, 28 and 31), and (4) original audio data and video data are reproduced for (M-1) data blocks in the main sequence (Fig. 28; Paragraph 145). Further in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., firstly, secondly, thirdly, etc.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Such methodology is not claimed, merely that the control portion controls the nature of the device through such structure. The closest mode that is listed is that "post-record audio data are reproduced in succession from the M data blocks in the additional sequence..." As such and for the reasons listed below, no claims are allowable.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1 and 4 are rejected under 35 U.S.C. 102(a) as being anticipated by Itoh (US 2005/0013583 A1)

Regarding Claim 1, Itoh teaches a recording/reproduction device for an information recording medium on which video data and audio data are recorded independently of each other (Fig. 1),

- wherein on the information recording medium, in a separate area from a main sequence in which data blocks including original audio data and video data are recorded in succession (Fig. 5 – MPEG transport stream having VOBs), an additional sequence in

which data blocks including post-record audio data are recorded in succession is formed (Fig. 26 and 31),

- the recording/reproduction device comprising:
 - a pick-up for recording or reproducing information onto/from the information recording medium (Fig. 1, 130 and 131—pickup and medium), and
 - a control portion for controlling an operation of the pick-up (Fig. 1, 161-163 and 14),
 - wherein during reproduction from the information recording medium, the control portion controls an operation of the pick-up in such a manner that
 - when M (M is an integer of 2 or larger) data blocks in the main sequence and the additional sequence corresponding each other in a real-time are read out from the main sequence and the additional sequence (Figs. 26, 28, 30A, 30B, 31 and 39; Paragraphs 109, 112, 138-142, 145, 200), respectively,
 - (1) original audio data are reproduced from a head block of the M data blocks in the main sequence (Fig. 28; Paragraph 200; as further clarified in Fig. 7 and paragraphs [0098 and 0100] as such without such audio, back-audio would have no basis),
 - (2) post-record audio data are reproduced in succession from the M data blocks in the additional sequence that correspond to the M data blocks in the main sequence (Paragraphs 188, 200, 218),
 - (3) video data are reproduced from the head block of the main sequence (in at least Figs. 26, 27, 28 and 31), and
 - (4) original audio data and video data are reproduced for (M-1) data blocks in the main sequence (Fig. 28; Paragraph 145; as further clarified in Fig. 7 and

paragraphs [0098 and 0100] as such without such audio, back-audio would have no basis).

Regarding Claim 4, Itoh teaches the recording/reproduction device according to claim 1, wherein when a total amount of video data that is read out from (M+1) data blocks is taken as YV (Figs. 22, 23, 28, 29, 30A and 30B),

- a bit rate of the video data is taken as VdV (Fig. 29 – reading of V over time),
- a time necessary for reading out the video data from the (M+1) data blocks is taken as Tsv (Fig. 29 – time of reading V), and
- a process time that is necessary for processes other than reading out of the video data during a period between a time when reading out of the video data from the first data block is started and a time when reading out of the video data from the (M+1)-th data block is ended in the (M+1) data blocks is taken as Tnv, $YV/VdV \geq Tsv + Tnv$ is satisfied (Figs. 28 and 29; Paragraphs 116-119, 123-127, 142, 188).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL CHOI whose telephone number is (571) 272-9594. The examiner can normally be reached on M-F (9am - 5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MICHAEL CHOI
Examiner
Art Unit 2621

/Marsha D. Banks-Harold/
Supervisory Patent Examiner, Art Unit 2621